

Message Text

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PAGE 01 PARIS 21087 01 OF 05 031815Z
ACTION EUR-12

INFO OCT-01 ISO-00 STR-07 XMB-02 CTME-00 L-03 NSC-05
AGR-01 AID-05 CEA-01 CIAE-00 COME-00 EB-08 EA-10
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LIMITED OFFICIAL USE SECTION 01 OF 05 PARIS 21087

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E.O. 11652: N/A
TAGS: OECD, EINV
SUBJECT: COMMITTEE ON INTERNATIONAL INVESTMENT AND
MULTINATIONAL ENTERPRISES (CIME): AD HOC GROUP ON
MNE GUIDELINES, JUNE 29 - 30, 1978

1. SUMMARY: "LEVY" GROUP MET JUNE 29 - 30 TO:
(A) CONSIDER NEW TUAC CASES PRESENTED IN APRIL AT FORMAL
CIME CONSULTATIONS WITH TUAC (SEE PARIS 1208U); (B) EX-
AMINE BIAC PROBLEMS REGARDING INFORMATION DISCLOSURE
SECTION OF THE MNE GUIDELINES; (C) ESTABLISH INFORMAL
CONSULTATION PROCESS BETWEEN LEVY GROUP AND TUAC AND BIAC.
NEW TUAC CASES INTRODUCED FEW NEW ISSUES. BATCO CASE
COMPLICATED WHEN DUTCH DEL INTRODUCED PAPER RELATING
DUTCH GOVERNMENT EMPHASIS ON MAINTAINING EMPLOYMENT TO
BATCO CLOSURE OF PROFITABLE SUBSIDIARY. DUTCH SOUGHT
TO USE CASE AS MEANS OF ADVANCING THEIR INTERESTS IN
FACT FINDING, INCLUDING THE POSSIBILITY COF CIME
INVITATION TO BATCO TO APPEAR BEFORE COMMITTEE. LACK
OF FIRM DUTCH GOVERNMENT VIEW ON MERITS OF CASE, AND
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PAGE 02 PARIS 21087 01 OF 05 031815Z

LACK OF SPECIFIC POLICIES ON THE EMPLOYMENT/DISINVEST-
MENT ISSUE WEAKENED DUTCH CASE IN VIEW OF MOST LEVY
GROUP MEMBERS. DISCUSSION OF INFORMATION ISSUE
(INCLUDING DISCLOSURE TO UNIONS) WENT WELL WITH GENERAL
AGREEMENT THAT THIS SHOULD BE DISCUSSED DURING INFORMAL
EXCHANGES WITH TUAC AND BIAC. UNFORTUNATE LEAK OF
IME(78)1 TO TUAC PREJUDGED GROUP'S DECISION ON

DOCUMENT'S USE IN INFORMAL CONSULTATIONS WITH TUAC AND BIAC. U.S. DEL SAID SUCH PREMATURE LEAK OF DOCUMENTS CALLED INTO QUESTION INTEGRITY OF CAREFULLY DEVELOPED LEVY GROUP PROCEDURES AND MIGHT IMPACT ON U.S. VIEW OF GROUP'S ROLE IN FORMAL REVIEW PROCESS. INFORMAL CONSULTATIONS WITH TUAC/BIAC AND NEXT MEETING OF GROUP SCHEDULED FOR SEPTEMBER 20 - 22. END SUMMARY

2. CHAIRMAN (LEVY) OPENED MEETING WITH REVIEW OF GROUP'S WORK TO DATE. HE DREW THREE MAJOR CONCLUSIONS:

(1) PROBLEMS OF INTERPRETING THE GUIDELINES ARE MUCH MORE COMPLEX THAN ORIGINALLY THOUGHT, REFLECTING WIDE DIFFERENCES IN MEMBER COUNTRY PRACTICES;

(2) THE GROUP HAS SUCCEEDED IN: (A) DEVELOPING WORKING METHODS FOR EXTRAPOLATING GENERAL ISSUES FROM SPECIFIC CASES, (B) COMPILING EXPERIENCE UNDER THE GUIDELINES FOR THE 1979 REVIEW, AND (C) IMPROVING RELATIONS AND DEVELOPING CLOSER, MORE INFORMAL CONTACTS BETWEEN THE CIME AND BIAC AND TUAC;

(3) THE GROUP HAS BEEN CRITICIZED IN THE FOLLOWING THREE AREAS: (A) ITS INABILITY TO DEVELOP A SIMPLE CONSENSUS ON INTERPRETATION OF THE GUIDELINES, (B) THE DISTINCTION, IN KEEPING WITH THE DECISION LIMITED OFFICIAL USE

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PAGE 03 PARIS 21087 01 OF 05 031815Z

ON INTERGOVERNMENTAL CONSULTATION, BETWEEN CASES SUBMITTED BY GOVERNMENTS AND CASES SUBMITTED BY LABOR UNIONS, AND (C) THE FACT THAT NO COMPANY HAS BEEN INVITED TO APPEAR BEFORE THE COMMITTEE DESPITE PROVISIONS OF PARAGRAPH THREE OF THE DECISION ON INTERGOVERNMENTAL CONSULTATION.

3. EXAMINATION OF NEW TUAC ISSUES: DISCUSSION OF THE ISSUES PRESENTED BY TUAC AT THE APRIL CONSULTATIONS WENT SMOOTHLY WITH EXCEPTION OF THE BATCO CASE (SEE PARAGRAPH FOUR). THE SECRETARIAT GAVE A BRIEF SUMMARY OF THE RESULTS TO DATE OF ITS SURVEY ON THE LEGAL SITUATION IN MEMBER COUNTRIES REGARDING PARENT COMPANY RESPONSIBILITY FOR SUBSIDIARIES. U.S. DEL (KAUZLARICH) REQUESTED THE SECRETARIAT TO PREPARE AN EXPLANATION OF HOW THE SURVEY RESULTS RELATE TO ISSUES POSED IN THE GUIDELINES. HE ALSO SUGGESTED THAT THESE SUBMISSIONS WOULD PROVE USEFUL IN THE INFORMAL CONTACTS WITH BIAC AND TUAC. THE GROUP AGREED GENERALLY WITH THE ANALYSIS IN THE SECRETARIAT DOCUMENT (DAF/IMF/78.7). IT FOUND THAT MOST OF THE TUAC CASES RAISED NO NEW ISSUES. WHILE SOME WORKING GROUP MEMBERS TRIED TO DISMISS

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PAGE 01 PARIS 21087 02 OF 05 031821Z
ACTION EUR-12

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LIMITED OFFICIAL USE SECTION 02 OF 05 PARIS 21087

USOECD

ATLAS/KSSU CASE AS NOT COVERED UNDER THE GUIDELINES,
U.S. DEL MADE FOLLOWING POINTS: FIRST, EVEN
IF THESE GROUPINGS WERE NOT MNE'S, THE GUIDELINES DID
SUBJECT BOTH MNE'S AND NON-MNE'S TO THE SAME EXPECT-
ATIONS. SECOND, THE REAL ISSUE THE UNIONS WERE RAISING
WAS ENDORSEMENT OF THEIR DESIRE TO NEGOTIATE WITH MNE'S
AT THE GROUP LEVEL. HOWEVER, THERE IS NOTHING IN
THE GUIDELINES CONFIRMING SUCH A RIGHT. THERE WAS
CONSENSUS THAT THE TUAC PRESENTATION ON MNE
DISCLOSURE OF INFORMATION TO EMPLOYEES SHOULD BE
SEEN IN THE CONTEXT OF THE GENERAL ISSUE OF INFORMATION
DISCLOSURE (RECOGNIZING PARA 3 OF THE EMPLOYMENT AND
INDUSTRIAL RELATIONS SECTION) AND THAT THE INFORMAL
CONTACTS WITH THE ADVISORY GROUPS SHOULD BE USED
TO ELUCIDATE FURTHER THESE ISSUES. THE GROUP DECIDED TO
ASK TUAC TO CLARIFY ITS PRESENTATION IN APRIL TO CIME
ON INTERNATIONAL BANKING BEFORE IT DECIDES IF CIME
APPROPRIATE OECD BODY FOR ISSUE. BASED ON PRESENT
TUAC PRESENTATION, GENERAL FEELING WAS THAT ISSUE HAD
LITTLE OR NO RELEVANCE TO CIME WORK.

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PAGE 02 PARIS 21087 02 OF 05 031821Z

4. BATCO: WITHOUT ADVANCE NOTICE DUTCH DEL (GAUTIER) INTRODUCED MEMORANDUM (BEING HAND CARRIED TO WASHINGTON BY KAUZLARICH) WHICH CONFUSED AND COMPLICATED THE DISCUSSION OF THE ISSUES RAISED IN THE BATCO CASE. THE DUTCH THEMSELVES WERE NOT ENTIRELY CLEAR ON THE PURPOSE OF THE MEMORANDUM. THEY STATED THAT THEIR INTENTION WAS TO POINT UP ADDITIONAL ISSUES (I.E., THE RELATION OF PARAS 1 AND 2 OF GENERAL POLICIES TO THE CLOSURE OF A PROFITABLE FIRM), BUT THAT CASE WAS STILL BEFORE DUTCH COURTS AND THAT THE GOVERNMENT HAD NO VIEWS ON THE CASE OTHER THAN ASCERTAINING THE FACTS. DESPITE FACT CASE HAD BEEN IN DUTCH COURTS SINCE AT LEAST JANUARY 1978, DUTCH DEL ADMITTED THAT DUTCH GOVERNMENT HAD NO INTEREST IN THE CASE UNTIL IT HAD HEARD TUAC WOULD RAISE CASE LAST APRIL. THE FACT THAT THE DUTCH GOVERNMENT WILL BE ASKED QUESTIONS ON THE BATCO CASE IN PARLIAMENTARY QUESTIONING NEXT WEEK, AND THE DUTCH DESIRE, EXPRESSED FORCEFULLY TO CIME OVER THE PAST YEAR, TO INTRODUCE A FACT-FINDING MECHANISM INTO THE COMMITTEE'S PROCEDURES MAY EXPLAIN PRESENT DUTCH INTEREST IN THE CASE. MEMBER OF DUTCH DELEGATION IN FACT CONFIRMED THAT MAJOR PURPOSE IN PRESSING ISSUE WAS TO USE THIS CASE TO ADVANCE DUTCH POSITION ON FACT FINDING.

5. THE U.S., SECONDED BY A NUMBER OF DELEGATIONS MADE THE POINT THAT THE SPECIFIC FACTS OF THIS CASE WERE NOT ESSENTIAL TO THE GROUP'S DISCUSSION OF THE ISSUES UNDER THE GUIDELINES THE CASE MIGHT ILLUSTRATE. (IN PART THIS LED DUTCH TO RETRACT EXPRESSED INTENTION TO INVITE BATCO TO APPEAR BEFORE THE CIME.) LEVY OUTLINED THE ISSUES IN LIMITED OFFICIAL USE

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PAGE 03 PARIS 21087 02 OF 05 031821Z

THE BATCO CASE AS FOLLOWS:

(A) DO THE GUIDELINES IMPOSE A LIMITATION ON THE ABILITY OF AN MNE TO DISINVEST IN A MEMBER COUNTRY? (A CORRELARY TO THIS IS WHETHER A COMPANY'S "PROFITABILITY" IS A FACTOR TO BE CONSIDERED IN THIS REGARD UNDER THE GUIDELINES.

(B) IF NOT, SHOULD THE GUIDELINES BE AMENDED TO IMPOSE LIMITATIONS?

(C) ARE THERE ANY NEW ELEMENTS FOR PARAGRAPH 6 OF THE EMPLOYMENT AND INDUSTRIAL RELATIONS SECTION

THAT CAN BE FOUND IN THE BATCO CASE?

6. DUTCH CONTENTED THAT MAINTAINING DOMESTIC EMPLOYMENT LEVELS IS MAJOR DOMESTIC POLICY ISSUE AND THEREFORE PARAS 1 AND 2 OF GENERAL POLICY SECTION OF GUIDELINES APPLICABLE IN THIS CASE. DUTCH GOVERNMENT COULD NOT ALLOW DISINVESTMENT TO TAKE PLACE IN SAME OPEN ENVIRONMENT WITH WHICH THE DUTCH WELCOMED NEW INVESTMENT. U.S. DEL SAID SUCH A SEPARATION BETWEEN INVESTMENT AND DISINVESTMENT FOR POLICY PURPOSES TENDED TO DISTORT THE INTERNATIONAL INVESTMENT PROCESS. HE POINTED OUT THAT INVESTMENT TAKES PLACE AGAINST A CHANGING MOSAIC OF ECONOMIC REALITY, AND THAT INVESTMENT (INCLUDING DISINVESTMENT) HAS TO RESPOND TO THE CHANGING ENVIRONMENT

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PAGE 01 PARIS 21087 03 OF 05 031814Z
ACTION EUR-12

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TO SECSTATE WASHDC 4247
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LIMITED OFFICIAL USE SECTION 03 OF 05 PARIS 21087

USOECD

AS CHANGES TAKE PLACE. IF MEMBER COUNTRIES HAVE SPECIFIC POLICY GOALS IN THE EMPLOYMENT AREA, THEN IT IS UP TO MEMBER GOVERNMENTS TO MAKE THESE GOALS CLEAR TO FIRMS AS WELL AS HOW SUCH GOALS MIGHT AFFECT ANY PLANS FOR DISINVESTMENT. DUTCH ADMITTED THAT THEIR POLICIES WERE NOT SPECIFIC IN THIS AREA. U.S. DEL AND SECRETARIAT QUESTIONED WHETHER UNDER SUCH CIRCUMSTANCES PARAS 1 AND 2

ACTUALLY APPLIED. U.S. DEL, SUPPORTED MOST STRONGLY BY U.K., SWISS AND FRG, ARGUED THAT THE GUIDELINES IN NO WAY IMPAIR A COMPANY'S RIGHT TO CLOSE DOWN AN ACTIVITY. U.K. DEL (DENHAM) POINTED OUT THAT THE GUIDELINES (PARTICULARLY PARAGRAPHS 1 AND 2 OF THE GENERAL POLICY SECTION) DO CONTAIN FACTORS THAT SHOULD BE TAKEN INTO CONSIDERATION WHEN FIRMS MAKE A DECISION THAT MIGHT RESULT IN AN ADVERSE CHANGE IN OPERATIONS. FURTHER, THE GUIDELINES ALSO CONTAIN SUGGESTIONS ON HOW FIRMS SHOULD CONDUCT THEMSELVES AFTER SUCH A DECISION HAS BEEN MADE (PARAGRAPH 6 OF EMPLOYMENT AND INDUSTRIAL RELATIONS LIMITED OFFICIAL USE

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PAGE 02 PARIS 21087 03 OF 05 031814Z

SECTION). AT THE END OF HALF DAY DISCUSSION ON THE BATCO CASE, WORKING GROUP CHAIRMAN ASKED THE SECRETARIAT TO PRODUCE A PAPER SUMMARIZING THE DISCUSSION WHICH WILL BE PRESENTED TO FULL CIME JULY 3 - 4. WIDE RANGING DISCUSSION OF BATCO PREVENTED LITTLE MORE THAN TANGENTIAL REFERENCE TO FIRESTONE CASE.

7. DISCLOSURE OF INFORMATION: GROUP AGREED WITH U.S. THAT DISCUSSION OF THE MATERIALS PRESENTED BY BIAC ON PROBLEMS RELATED TO DISCLOSURE OF INFORMATION WAS SIGNIFICANT AND THAT DISCUSSION OF THIS SECTION OF THE GUIDELINES WAS IMPORTANT. THERE WAS GENERAL FEELING THAT THE BIAC PRESENTATION HAD SHOWN THAT DIFFICULTIES IN THE APPLICATION OF THE GUIDELINES ON THIS SECTION WERE GREATER THAN THE AUTHORS OF THE GUIDELINES HAD ENVISAGED. (SWEDES POINTED OUT THAT IN THEIR VIEW, BIAC HAD CHOSEN EXTREME CASE AND THAT FROM WHICH GENERAL CONCLUSIONS SHOULD NOT BE DRAWN.) THE GROUP DECIDED THAT IT WOULD BE USEFUL TO HAVE CONTACT WITH BIAC AND TUAC ON THE SUBJECT OF INFORMATION DISCLOSURE. IN THIS CONNECTION, THE CHAIRMAN RECALLED BIAC'S OFFER AT THE TIME OF THE APRIL CONSULTATIONS TO INFORM THE COMMITTEE WHEN IT HAD FURTHER INFORMATION ON COMPANIES' REACTIONS TO THE DISCLOSURE OF INFORMATION SECTION OF THE GUIDELINES. SWISS, SUPPORTED BY A NUMBER OF SPEAKERS, DREW A DISTINCTION BETWEEN THE TRANSITORY PROBLEMS CONNECTED WITH INFORMATION DISCLOSURE (E.G., ADAPTING REPORTING SYSTEMS) AND FUNDAMENTAL DIFFERENCES RELATING ECONOMIC, LEGAL AND TECHNICAL POLICIES WHICH DIFFER AMONG COUNTRIES.

8. THE ATTENTION OF THE GROUP WAS DRAWN TO WORK DONE LIMITED OFFICIAL USE

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PAGE 03 PARIS 21087 03 OF 05 031814Z

ELSEWHERE IN OECD AND OTHER INTERNATIONAL FORA THAT WOULD AFFECT DISCLOSURE OF INFORMATION. BELGIAN DEL NOTED EEC WORK RELATING TO THE DISCLOSURE OF INFORMATION TO WORKERS. U.S. DEL MENTIONED OECD WORK ON TRANSBORDER DATA FLOWS AS AFFECTING THE ABILITY OF FIRMS TO RESPOND TO MEMBER COUNTRY REQUESTS FOR MORE DATA. IT WAS DECIDED THAT THE SECRETARIAT WOULD SURVEY WORK BEING CONDUCTED IN THE OECD AND ELSEWHERE (WITH PARTICULAR EMPHASIS ON INFORMATION BEING DISSEMINATED TO EMPLOYEES), DETERMINE WHAT INFORMATION IS ALREADY AVAILABLE WITHIN THE SECRETARIAT, AND PROPOSE THE OUTLINE OF A POSSIBLE QUESTIONNAIRE ON MEMBER COUNTRY POLICIES IN THIS AREA.

9. CONTACTS WITH BIAC AND TUAC: THE GROUP HAD LITTLE TROUBLE AGREEING ON THE FIRST TWO POINTS OF THE SECRETARIAT DOCUMENT (DAF/IME/78.9) ON ARRANGEMENTS FOR INFORMAL CONTACTS WITH BIAC AND TUAC. ONLY THE FRG AND THE DUTCH SPOKE FOR A MORE RESTRICTED GROUP (BUT ONE IN WHICH THEY WOULD PARTICIPATE) TO MEET WITH THE TWO ADVISORY BODIES AND THEY QUICKLY CONCEDED TO THE MAJORITY VIEW THAT THE FULL WORKING GROUP SHOULD PARTICIPATE IN THE INFORMAL CONTACTS. THE U.S. AND SEVERAL OTHER DELEGATIONS EXPRESSED A PREFERENCE FOR JOINT MEETINGS WITH BIAC AND TUAC. HOWEVER, MOST OTHER DELEGATIONS, AND THE SECRETARIAT, WHILE AGREEING THAT THIS WOULD BE DESIRABLE EVENTUALLY, BELIEVED THAT WE SHOULD START WITH SEPARATE MEETINGS UNTIL IT WAS CLEAR HOW THE PROCESS

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PAGE 01 PARIS 21087 04 OF 05 031828Z
ACTION EUR-12

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LIMITED OFFICIAL USE SECTION 04 OF 05 PARIS 21087

USOECD

WOULD WORK OUT.

10. ON THE AGENDA FOR THE INFORMAL CONSULTATIONS AND DOCUMENTATION TO BE PROVIDED THE TWO GROUPS, AGREEMENT WAS MORE DIFFICULT. THE US EXPRESSED THE VIEW THAT ALL SECTIONS OF THE GUIDELINES SHOULD BE OPEN FOR DISCUSSION IN THESE INFORMAL CONTACTS AND REGRETTED THAT THE WORKING GROUP HAD FOCUSED MOST OF ITS DISCUSSIONS ON THE GUIDELINES ON THE EMPLOYMENT AND INDUSTRIAL RELATIONS SECTIONS. THE NETHERLANDS SUGGESTED THAT THE BATCO CASE BE A SPECIFIC ITEM ON THE AGENDA FOR THE SESSION WITH BIAC. THE U.S., SUPPORTED BY THE FRG AND UK, QUICKLY OBJECTED TO HAVING SPECIFIC CASES BE THE SUBJECT OF DISCUSSIONS IN THE INFORMAL CONTACTS IN LIGHT OF THE PROCEDURES UNDER WHICH THE WORKING GROUP IS OPERATING. MOST OF THE DELEGATES SEEM TO FEEL THAT A DISCUSSION OF PARENTAL RESPONSIBILITY FOR SUBSIDIARIES WITH THE TWO GROUPS WOULD BE PREMATURE BEFORE THE CIME ITSELF HAD A CHANCE TO DISCUSS THE RESULTS OF THE SECRETARIAT'S LIMITED OFFICIAL USE

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PAGE 02 PARIS 21087 04 OF 05 031828Z

SURVEY. THERE WAS GENERAL AGREEMENT THAT THE INFORMATION ISSUE WOULD BE A RELEVANT AGENDA ITEM FOR BOTH TUAC AND BIAC. THE SECRETARIAT AND THE WORKING GROUP CHAIRMAN WILL DISCUSS THE AGENDA FOR THE FIRST MEETINGS WITH THE TWO GROUPS AND GET THEIR VIEWS ON AGENDA ISSUES RAISED DURING THE WORKING GROUP'S DISCUSSION.

11. DOCUMENTATION FOR CONTACTS: DOCUMENTATION ISSUE FOR THESE INFORMAL CONTACTS CENTERED ON IME(78)1, PREPARED LAST FEBRUARY IDENTIFYING ISSUES FOR GUIDELINES POSED IN TUAC AND BELGIAN GOVERNMENT CASES. LEVY'S STATEMENT AT APRIL CONSULTATIONS WITH TUAC BASED EXCLUSIVELY ON IME(78)1. APRIL CIME AGREED THAT THIS DOCUMENT SHOULD BE THE BASIS FOR INFORMAL LEVY GROUP CONSULTATIONS WITH TUAC AND BIAC "IN A MANNER TO BE DECIDED BY THE AD HOC GROUP". LEVY PROPOSED THAT IME(78)1 BE A DOCUMENT FOR DISCUSSION ON THE UNDERSTANDING THAT IT REMAIN A RESTRICTED OECD DOCUMENT REFLECTING ONLY A PRELIMINARY STAGE OF THE

GROUP'S CONSIDERATION OF THESE ISSUES. SWEDES AND DUTCH IMMEDIATELY REMINDED CHAIRMAN OF CHANGES (C.F. PARA. 5.1(C), (D) OF IME/M(78)1) THEY WISHED TO MAKE BEFORE DOCUMENT'S RELEASE. GERMAN DEL SUGGESTED REMOVAL OF REFERENCE TO DIFFERING MEMBER COUNTRY VIEWS. ONLY U.S. OPPOSED RELEASE OF IME(78)1.

12. WHEN SECRETARIAT POINTED OUT THAT TUAC ALREADY HAD DOCUMENT, U.S. DEL SAID THIS FACT NOT ONLY MADE EXERCISE ACADEMIC, BUT CALLED INTO QUESTION FUTURE WORK OF THE LEVY GROUP. OVER PAST MONTHS, GROUP HAD CAREFULLY WORKED OUT PROCEDURES FOR DEALING WITH CASES AND ISSUES THEY RAISED. KEY ELEMENT IN PROCEDURES WAS LIMITED OFFICIAL USE

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PAGE 03 PARIS 21087 04 OF 05 031828Z

NATURE OF EXCHANGES WITH TUAC AND BIAC. PREMATURE RELEASE OF THIS DOCUMENT PREEMPTED THE GROUP DECISION ON THIS ISSUE. FURTHER, THIS INCIDENT COULD HAVE AN IMPACT ON HOW THE U.S. VIEWS ISSUES THAT LEVY GROUP MIGHT COVER AS PART OF THE REVIEW PROCESS. THERE WAS GENERAL AGREEMENT THAT FURTHER DISCUSSION OF THIS ISSUE NOW ACADEMIC AND SWEDISH AND DUTCH DELS WITHDREW REQUEST FOR CHANGES IN IME(78)1. THE SECRETARIAT PLANS TO CIRCULATE ITS SUMMARY OF THE DISCUSSION ON THE NEW TUAC CASES (SEE PARAGRAPHS 3 AND 4) AT THE FULL CIME MEETING. IF FOUND NON-CONTROVERSIAL, THE SUMMARY WOULD ALSO BE ON THE SAME BASIS AS IME(78)1, PART OF THE DOCUMENTATION FOR THE INFORMAL MEETING WITH BIAC AND TUAC.

13. MEETING WITH ADVISORY GROUPS. IN DISCUSSING INFORMAL CONTACTS BETWEEN WORKING GROUPS AND BIAC AND TUAC, LEVY DREW A NET DISTINCTION BETWEEN THESE CONTACTS WHICH WILL FOCUS ON THE INFORMAL REVIEW OF EXPERIENCE UNDER THE GUIDELINES AND THE MORE FORMAL CONSULTATIONS WITH THE FULL CIME WHICH WILL FOCUS ON THE 1979 REVIEW AND THE RE-EXAMINATION OF ALL THREE DECISIONS. THE GROUP TENTATIVELY SET ITS NEXT MEETING FOR SEPTEMBER 20-22. IT WILL MEET WITH TUAC ON SEPTEMBER 20 AND BIAC ON SEPTEMBER 21ST AND DEVOTE THE 22ND TO AN EXCHANGE OF VIEWS ON THE CONTACTS OF THE PRECEDING TWO DAYS AND TO OTHER OUTSTANDING SUBJECTS.

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PAGE 01 PARIS 21087 05 OF 05 031811Z
ACTION EUR-12

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LIMITED OFFICIAL USE SECTION 05 OF 05 PARIS 21087

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14. COMMENT: MEETING CLEARLY INDICATED DUTCH AND SWE-
DISH DESIRE TO APPLY GUIDELINES TO SPECIFIC CASES IN
MANNER THAT APPROACHES A SEMI-JUDICIAL PROCESS. ASIDE
FROM SWEDES, DUTCH EFFORT TO ADVANCE THE CAUSE OF FACT-
FINDING WITH BATCO CASE RECEIVED NO SUPPORT. WITH CASE
STILL IN COURTS, DUTCH GOVERNMENT UNWILLING TO TAKE A
POSITION ON MERITS. DUTCH ATTEMPT TO RELATE GENERAL
POLICY PARAS. 1 AND 2, AND BATCO CLOSURE WAS UNSUCCESS-
FUL DUE TO LACK OF CLEAR-CUT DUTCH GOVERNMENT POLICY IN
EMPLOYMENT AREA TO WHICH BATCO EXPECTED TO RESPOND. THIS
UNDERCUT DUTCH INTENTION TO INVITE BATCO TO APPEAR BEFORE
CIME TO EXPLAIN ACTIONS.

15. DESPITE UNFORTUNATE LEAK OF IME(78)1 TO TUAC PRE-
EMPTING LEVY GROUP DECISION ON USE OF DOCUMENT, LONG-
TERM IMPACT MAY BE TO U.S. ADVANTAGE. FIRST, IT FORCED
BOTH SWEDES AND DUTCH TO WITHDRAW THEIR EFFORTS TO HAVE
IME(78)1 REFLECT A WORKING GROUP MANDATE TO INTERPRET
THE GUIDELINES IN LIGHT OF THE SPECIFIC ISSUES; AND TO
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PAGE 02 PARIS 21087 05 OF 05 031811Z

IMPLY A COMMITMENT FOR CONSULTATIONS BETWEEN FIRMS AND
EMPLOYEES WHEN CHANGES IN OPERATIONS UNDER CONSIDERA-
TION. SECOND, THIS INCIDENT CLEARLY POINTS OUT WHY THE
ESTABLISHMENT OF ANY FACT-FINDING PROCEDURE IN THE CIME

WOULD BE HIGHLY INAPPROPRIATE. ANY SUCH WORK WOULD
BECOME PUBLIC KNOWLEDGE ALMOST IMMEDIATELY, THUS ORE-
JUDICING OPEN MEMBER COUNTRY EXCHANGES AS WELL AS ANY

FACT-FINDING PROCESS WHOSE CONFIDENTIALITY SHOULD BE
PROTECTED.

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